

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ARIAD PHARMACEUTICALS, INC.,)	
MASSACHUSETTS INSTITUTE OF)	
TECHNOLOGY, THE WHITEHEAD)	
INSTITUTE FOR BIOMEDICAL)	Civil Action No. 02 CV 11280
RESEARCH, and THE PRESIDENT AND)	RWZ
FELLOWS OF HARVARD COLLEGE)	
)	
Plaintiffs,)	U.S. District Judge
)	Rya W. Zobel
v.)	
)	
ELI LILLY AND COMPANY,)	
)	
Defendant.)	

**DEFENDANT ELI LILLY AND COMPANY'S
MOTION FOR SUMMARY JUDGMENT OF INVALIDITY
UNDER 35 U.S.C. § 102**

Defendant Eli Lilly and Company (Lilly) moves, upon the Declaration of Lawrence R. Robins in Support of Defendant Eli Lilly and Company's Motion for Summary Judgment of Invalidity under 35 U.S.C. § 102 (the "Robins Declaration"), dated December 23, 2005, the exhibits annexed to the Robins Declaration, Defendant's Rule 56.1 Statement, the Memorandum in Support of Defendant's Motion for Summary Judgment of Invalidity Under 35 U.S.C. § 102, and all other papers and prior proceeding herein, that this Court enter an order, pursuant to Federal Rule of Civil Procedure 56(c) granting summary judgment in favor of Lilly.

REQUEST FOR ORAL ARGUMENT

Defendant respectfully requests oral argument on its motion for summary judgment of invalidity under 35 U.S.C. § 102.

Respectfully submitted,

Date: December 23, 2005

/s/ Lawrence R. Robins

Lawrence R. Robins (BBO# 632610)
Leslie McDonell (BBO# 653000)
Christopher Schultz (BBO# 630814)
**Finnegan Henderson Farrabow Garrett
& Dunner LLP**
55 Cambridge Parkway
Cambridge, MA 02142
Telephone: (617) 452-1660
Facsimile: (617) 452-1666

Of Counsel

Paul R. Cantrell
Gilbert T. Voy
Alexander Wilson
Eli Lilly and Company
Lilly Corporate Center
Indianapolis, IN 46285
Telephone: (317) 276-3885
Facsimile: (317) 276-1294

Paul H. Berghoff
Grantland G. Drutchas
David M. Frischkorn
**McDonnell Boehnen Hulbert
& Berghoff LLP**
300 South Wacker Drive
Chicago, Illinois 60606
Telephone: (312) 913-0001
Facsimile: (312) 913-0002

**Attorneys for Defendant Eli Lilly and
Company**

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Counsel for defendant Lilly and Company hereby certifies that it has attempted in good faith to resolve or narrow the issues presented in this motion but has been unable to do so.

/s/Lawrence R. Robins